

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

OP.No. 10065 of 2002(W)

PETITIONER:

**K.SASIDHARAN, VILLAGE OFFICER,
ERUTHEMPATHY VILLAGE, CHITTUR TALUK, PALAKKAD DIST.**

BY ADV. SRI.H.BADARUDDIN

RESPONDENTS:

1. THE DISTRICT COLLECTOR, PALAKKAD.

2. THE REVENUE DIVISIONAL OFFICER, PALAKKAD.

BY GOVERNMENT PLEADER SMT.T.B.RAMANI

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

OP. NO.10065/2002

ORDER ON CMP. NO.17885/2002 IN OP. 10065/2002

DISMISSED

26.07.2007

SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE LETTER NO.B9924/91 DT..2.12.91 FROM R.2 TO PETITIONER.

EXT.P2:- COPY OF THE PETITIONERS REPLY DT. 24.12.91 TO P1 ADDRESSED TO R.2.

EXT.P3:- COPY OF THE SHOW CAUSE NOTICE FROM R.2 TO PETITIONER REF. NO.B9924/91 DT. 15.4.98.

EXT.P4:- COPY OF THE WRITTEN STATEMENT FROM PETITIONER TO R.2 IN RESPONSE TO P.3 NOTICE.

EXT.P5:- COPY OF THE PROCEEDINGS NO.B9924/91 DT.25.6.93 FROM R.2 TO PETITIONER.

EXT.P6:- COPY OF THE PROCEEDINGS NO.A4.73928/93 DT. 18.3.94 FROM R.1 TO PETITIONER.

EXT.P7:- COPY OF THE NOTICE DT. 28.3.94 FROM R.1 TO PETITIONER.

EXT.P8:- COPY OF THE NOTICE DT. 16.5.94 FROM R.2 TO PETITIONER.

EXT.P9:- COPY OF THE PETITIONERS LETTER DT. 16.6.94 TO R.2.

EXT.P10:- COPY OF THE PROCEEDINGS NO.9924/91 DT. NIL FROM SUB COLLECTOR, PALAKKAD TO PETITIONER.

EXT.P11:- COPY OF THE APPEAL DT. 2.1.97 FROM THE PETITIONER TO R.1 FOR EXT.P10.

EXT.P12:- COPY OF THE PROCEEDINGS NO.A4/64876/97 DT. 2.11.2000 FROM R.1 TO PETITIONER.

/TRUE COPY/

P.S. TO JUDGE

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.10065 of 2002-W

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Dated this the 26th day of July, 2007.

JUDGMENT

The petitioner, then a Village Officer, was accused of having demanded bribe of Rs.50/- from one Alice in connection with the issuance of a solvency certificate. It was his case in opposition to the memo of charges that an application by the said Alice was presented before him by yet another person and he wanted the person applying for solvency certificate to be present rather than the application being presented through a third party. He denied of having demanded or taken bribe. The complaint of having taken bribe was made. This led to the enquiry proceedings initiated as per the memo of charges noticed above. That ended up in the imposition of punishment of barring of one increment for one year. By Ext.P6 order, the

District Collector as the appellate authority found that the statutory rules contained in Rule 15 of the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960 were not complied with and that the petitioner was not given an opportunity to cross-examine the witnesses. The District Collector treated the case as an instance of denial of natural justice and the order imposing the punishment was set aside and the matter was remitted to the Revenue Divisional Officer for re-consideration.

2. By Ext.P10, the RDO found that after remand, the matter was taken up for hearing on different dates with notice to the parties and on almost all the dates neither the complainant nor the witnesses were present. They were not present also on 13-12-1995 when the matter was posted finally. The RDO has concluded that it is evident that the complainant had filed the complaint with an intention of taking personal vengeance with the Village Officer, who had

attached the property belonging to the complainant's father. However, the punishment originally imposed, i.e., the punishment of barring of one increment with cumulative effect for one year was modified taking away the cumulative effect. Thus, the petitioner stood punished by imposing the punishment of barring of an increment. The learned Government Pleader is right in stating that the punishment imposed is only a minor penalty. But, then it is a penalty. No one could be accused and penalised unless there is material to impose such a penalty. The RDO himself has concluded that there was absolutely no basis or evidence to hold against the petitioner. In fact, it was noticed that the complaint was motivated. The complainant and the witnesses did not appear to provide the petitioner his right to cross-examine them following Ext.P6 order of remand. Under such circumstances, it is a case of a penalty being imposed on no evidence. Hence, the impugned decisions are arbitrary and unsustainable.

In the result, this writ petition is allowed quashing the impugned orders. It is directed that this judgment will be taken into consideration and the pay and pensionary benefits of the petitioner will be re-modulated accordingly and if any revised decisions are required in that regard, that would be issued within a period of three months from the date of receipt of a copy of this judgment with a representation by the petitioner in that regard.

**THOTTATHIL B. RADHAKRISHNAN,
JUDGE.**

Sha/-

OP10065/02

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.10065 of 2002-W

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JUDGMENT

Dated: 26th July, 2007.